

IN RE: Donald D. Gilbert)
Dist. 19, Map 91, Control Map 91, Parcel 53.040) Wilson County
Residential Property)
Tax Year 2005)

Statement of the Case

| Land Value | Improvement Value | Total Value | Assessment |
|------------|-------------------|-------------|------------|
| \$70,400 | 0 | \$70,400 | \$17,600 |

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on February 27, 2006 at the Wilson County Property Assessor's Office; present at the hearing were Donald Gilbert, the taxpayer, who represented himself, his brother, Michael Gilbert; Jimmy Locke, the Wilson County Property Assessor and Jeff White and Kevin Woodard also from for the Wilson County Property Assessor's Office.

Since Mr. Gilbert seeks to change the present valuation of the subject property, he has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

Mr. Gilbert stated several reasons to support his contention of value. He alleges that the property is miss-identified as residential as it more located in the woods than anything else (collective exhibit 1). Mr. Gilbert also alleges that the land value has a 400% increase from the last assessment and that the property is unsuitable for any residential development. Mr. Gilbert also relies on a 1999 Initial Decision and Order from Administrative Judge Mark Minsky that reduced the value of this parcel and an adjoining parcel owned by his brother [Mike Gilbert] (copy of Order attached for reference).

As can be noted; that Order is six (6) years old, prior to the reappraisal, has no supporting findings of fact or conclusions of law to substantiate the change. In fact the Order is an expedited Order which indicates it was a settlement agreement that was reached during the presentation of the case. At **this** hearing the parties are not in agreement to reduce the values and therefore Mr. Gilbert must prove that the County Board's values are incorrect.

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 50 and 62. (12th ed. 2001). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 597-603.

The value to be determined in the present case is market value. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 21-22.

Mr. Gilbert has not used any of the acceptable Appraisal methods for determining the fair market value of his property; he has produced no comparable adjusted sales nor has produced anything that shows the county values wrong. After having reviewed all

the evidence in the case, the administrative judge finds that the subject property should be valued at \$70,400.00 based upon the presumption of correctness attaching to the decision of the Wilson County Board of Equalization.

Since the taxpayer is appealing from the determination of the Wilson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The Taxpayer has not sustained his burden.

Order

It is, therefore, ORDERED that the following values remain for tax year 2005:

| Land Value | Improvement Value | Total Value | Assessment |
|------------|-------------------|-------------|------------|
| \$70,400 | 0 | \$70,400 | \$17,600 |

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

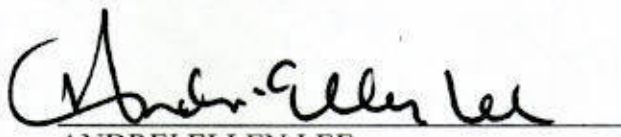
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 7th day of March, 2006.


ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Mr. Donald D. Gilbert, Taxpayer
Jimmy Locke, Wilson County Property Assessor's Office

TENNESSEE STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

| | | | |
|--------|---|---|---------------|
| IN RE: | Donald D. Gilbert, et al. |) | |
| | Dist. 19, Map 91, Control Map 91, Parcels |) | Wilson County |
| | 53.04 & 53.05, S.I. 000 |) | |
| | Residential Property |) | |
| | Tax Year 1999 |) | |

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

Parcel 53.04

| | | | |
|-------------------|--------------------------|--------------------|-------------------|
| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
| \$51,000 | \$ -0- | \$51,000 | \$12,750 |

Parcel 53.05

| | | | |
|-------------------|--------------------------|--------------------|-------------------|
| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
| \$51,100 | \$ -0- | \$51,100 | \$12,775 |

An appeal has been filed on behalf of the property owner with the State Board of Equalization.

This matter was reviewed by the administrative judge pursuant to Tennessee Code Annotated Sections 67-5-1412, 67-5-1501 and 67-5-1505. The administrative judge conducted a hearing in this matter on September 8, 1999.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The administrative judge finds that this is an appropriate case to expedite disposition of the appeal (as authorized by Tenn. Code Ann. §67-5-1505(d)) by dispensing with detailed findings.

The basis of valuation as stated in Tennessee Code Annotated §67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ." For the reasons enumerated at the hearing, the administrative judge finds that subject parcels should be valued at \$6,800 each as agreed by the parties.

ORDER

It is therefore ORDERED that the following values and assessments be adopted for tax year 1999:

Parcel 53.04

| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
|-------------------|--------------------------|--------------------|-------------------|
| \$6,800 | \$ -0- | \$6,800 | \$1,700 |

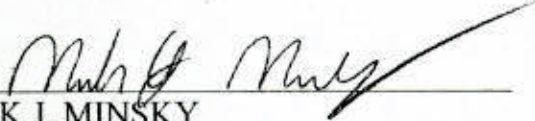
Parcel 53.05

| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
|-------------------|--------------------------|--------------------|-------------------|
| \$6,800 | \$ -0- | \$6,800 | \$1,700 |

The law gives the parties to this appeal certain additional remedies:

1. Petition for reconsideration (pursuant to Tenn. Code Ann. § 4-5-317). You may ask the administrative judge to reconsider this initial decision and order, but your request must be filed within ten (10) days from the order date stated below. The request must be in writing and state the specific grounds upon which relief is requested. You do not have to request reconsideration before seeking the other remedies stated below.
2. Appeal to the Assessment Appeals Commission (pursuant to Tenn. Code Ann. § 67-5-1501). You may appeal this initial decision and order to the Assessment Appeals Commission, which usually meets twice a year in each of the state's largest cities. *An appeal to the Commission must be filed within thirty (30) days from the order date stated below.* If no party appeals to the Commission, this initial decision and order will become final, and an official certificate will be mailed to you by the Assessment Appeals Commission in approximately seventy-five (75) days.
3. Payment of taxes (pursuant to Tenn. Code Ann. § 67-5-1512). You must pay at least the undisputed portion of your taxes before the delinquency date in order to maintain this appeal. No stay of effectiveness will be granted for this appeal.

ENTERED this 17th day of September, 1999.


MARK J. MINSKY
ADMINISTRATIVE JUDGE
STATE BOARD OF EQUALIZATION

c: Mr. Donald D. Gilbert
Mr. Mike Gilbert
Jennifer Bell, Assessor of Property